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**AUTHORITY:** The provisions of this Part 232 issued under sec. 10, 50 Stat. 314, as amended; 45 U.S.C. 228].

**Subpart A—Definitions****§ 232.101 Statutory provisions.**

For the purposes of this Act, the term "spouse" shall mean the wife or husband of a retirement annuitant or pensioner who (i) was married to such annuitant or pensioner for a period of not less than one year immediately preceding the day on which the application for a spouse's annuity is filed, or in the month prior to her or his marriage to such annuitant or pensioner was eligible for an annuity under subsection (a) or (d) of section 5 of this Act or, on the basis of disability, under subsection (c) thereof, or is the parent of such annuitant's or pensioner's son or daughter, if, as of the day on which the application for a spouse's annuity is filed, such wife or husband and such annuitant or pensioner were members of the same household, or such wife or husband was receiving regular contributions from such annuitant or pensioner toward her or his support, or such annuitant or pensioner has been ordered by any court to contribute to the support of such wife or husband; and (ii) in the case of a husband, was receiving at least one-half of his support from his wife at the time his wife's retirement annuity or pension began. (Section 2(f) of the Act.)

[Board Order 62-33, 27 F.R. 3322, Apr. 7, 1962]

**§ 232.102 Definition of "spouse".**

The term "spouse" means a wife or husband of a retirement annuitant or pensioner as defined in section 2 of the act and in §§ 232.103 and 232.104.

[Board Order 55-89, 20 F.R. 3711, May 27, 1955]

**§ 232.103 Definition of "wife".**

An individual is a "wife," as that term is used in section 2 of the act, when such an individual is the wife of a retirement annuitant or pensioner under the law of the state of his domicile and when:

(a) She has been married to such annuitant or pensioner for at least one year preceding the date on which an application for a spouse's annuity is filed, or in the month before her marriage was eligible for an insurance annuity under § 237.406 or § 237.410 of this chapter or, on the basis of disability, § 237.409 of this chapter, or is the natural mother of his son or daughter, and

(b) As of the date on which an application for a spouse's annuity is filed, she was a member of the same household as such annuitant or pensioner, or he was contributing toward her support regularly, or he had been ordered by any court to contribute to the support of such wife.

[Board Order 55-89, 20 F.R. 3711, May 27, 1955, as amended by Board Order 62-33, 27 F.R. 3322, Apr. 7, 1962]

**§ 232.104 Definition of "husband".**

An individual is a "husband," as that term is used in section 2 of the act, when such individual is the husband of a retirement annuitant or pensioner under the law of the state of her domicile and when:

(a) He has been married to such annuitant or pensioner for at least one year preceding the date on which an application for a spouse's annuity is filed, or in the month before his marriage was eligible for an insurance annuity under § 237.407 or § 237.410 of this chapter or, on the basis of disability, § 237.409 of this chapter, or is the natural father of her son or daughter, and

(b) As of the date on which an application for a spouse's annuity is filed, he was a member of the same household as such annuitant or pensioner, or she was contributing toward his support regularly, or she had been ordered by

any court to contribute to the support of such husband, and

(c) He was receiving at least one-half of his support from such annuitant or pensioner on the day her annuity or pension began to accrue.

[Board Order 55-89, 20 F.R. 3711, May 27, 1955, as amended by Board Order 62-33, 27 F.R. 3322, Apr. 7, 1962]

## Subpart B—Conditions of Entitlement

### § 232.201 Statutory provisions.

A spouse who would be entitled to an annuity under subsection (e) if she or he had attained the age of 65 may elect upon or after attaining the age of 62 to receive such annuity, but the annuity in any such case shall be reduced by one one-hundred-and-eightieth for each calendar month that the spouse is under age 65 when the annuity begins to accrue (section 2(h) of the act).

[Board Order 60-13, 25 F.R. 1673, Feb. 26, 1960]

### § 232.202 Eligibility for an annuity.

The spouse of a retirement annuitant or pensioner shall be eligible for a spouse's annuity when such annuitant or pensioner has attained age 65 if:

(a) The spouse has also attained age 65; or

(b) The spouse is at least age 62, but the amount of the annuity shall be reduced by one one-hundred-and-eightieth for each calendar month during all of which the spouse is less than 65 years of age when the annuity begins to accrue; or

(c) The spouse is a woman under age 65 who has in her care, individually or jointly with her husband, a child, who if the annuitant or pensioner were then to die, would be entitled to a child's insurance annuity under section 5(c) of the act.

[Board Order 60-13, 25 F.R. 1673, Feb. 26, 1960]

### § 232.203 Relinquishment of rights.

A spouse's annuity may not be certified for payment until the applicant has established to the satisfaction of the Board that he or she has relinquished all rights which such applicant may have had to return to the service of:

(a) An employer;

(b) Any person whether or not an employer by whom he or she was most recently employed when the annuity begins to accrue;

(c) Any person with whom he or she held, at the time the annuity begins to accrue, any rights to return to service;

(d) Any person with whom he or she ceased service in order to have the annuity begin to accrue.

[Board Order 55-89, 20 F.R. 3712, May 27, 1955]

### § 232.204 Filing of application.

(a) No spouse, irrespective of his or her qualifications, shall receive an annuity unless, on or before the date of death of the spouse, his or her duly executed application upon such form as the Board may from time to time prescribe is filed with the Board.

(b) An application, filed in the manner and form prescribed in paragraph (a) of this section, shall be considered filed with the Board on the date that it is received at an office of the Board, or the date that it is delivered to a field employee of the Board specifically authorized by a regional director to receive applications in the area where delivery is made, whichever date is earlier; or, in a case of an applicant who is not residing in the United States, the date his application is received at an office maintained outside the United States by the U.S. Foreign Service: *Provided, however*, That if in the adjudication of an application for an annuity it is determined that the applicant died on a day observed by the Board as a non-work day and that his application was received through the mail at an office of the Board on the first business day following such non-work day, the application shall be deemed to have been filed with the Board on such non-work day if it is established to the satisfaction of the Board that the application was mailed in sufficient time to have been received by the Board in the ordinary course of the mail on such non-work day had that day been a business day.

(c) The provisions of §§ 210.2(b), 210.4, 210.5, 210.7 through 210.13 of this chapter shall be applied to an application for a spouse's annuity in the same manner as applied to an application for an employee annuity.

[Board Order 60-13, 25 F.R. 1673, Feb. 26, 1960, as amended by Board Order 62-33, 27 F.R. 3322, Apr. 7, 1962]

### § 232.205 Annuity beginning date.

(a) A spouse's annuity shall begin to accrue as of the date specified in the application: *Provided, however*, That such date is not earlier than the latest of the following dates:

(1) The date following the last day of compensated service.

(2) The date on which all eligibility requirements are met.

(3) Twelve months prior to the filing date of the application.

(b) Where the date on which the annuity could otherwise begin falls on the thirty-first day of any month, the annuity shall begin to accrue on the first day of the following month.

[Board Order 55-89, 20 F.R. 3712, May 27, 1955, as amended by Board Order 62-33, 27 F.R. 3323, Apr. 7, 1962]

### Subpart C—Computation of Annuity

#### § 232.301 Statutory provisions.

The spouse of an individual, \* \* \* shall be entitled to a spouse's annuity equal to one-half of such individual's annuity or pension, but not more, with respect to any month, than 110 per centum of an amount equal to the maximum amount which could be paid to anyone, with respect to such month, as a wife's insurance benefit under section 202(b) of the Social Security Act as amended from time to time: *Provided however*, That if the annuity of the individual is awarded under paragraph 3 of subsection (a), the spouse's annuity shall be computed or recomputed as though such individual had been awarded the annuity to which he would have been entitled under paragraph 1 of said subsection: *Provided further*, That, if the annuity of the individual is awarded pursuant to a joint and survivor election, the spouse's annuity shall be computed or recomputed as though such individual had not made a joint and survivor election: *And provided further*, That any spouse's annuity shall be reduced by the amount of any annuity and the amount of any monthly insurance benefit, other than a wife's or husband's insurance benefit, to which such spouse is entitled, or on proper application would be entitled, under subsection (a) of this section or subsection (d) of section 5 of this Act or section 202 of the Social Security Act; except that if such spouse is disentitled to a wife's or husband's insurance benefit, or has had such benefit reduced, by reason of subsection (k) of section 202 of the Social Security Act, the reduction pursuant to this third proviso shall be only in the amount by which such spouse's monthly insurance benefit under said Act exceeds the wife's or husband's insurance benefit to which such spouse would have been entitled under that Act but for said subsection (k) (Section 2(e) of the act).

[Board Order 60-13, 25 F.R. 1674, Feb. 26, 1960]

#### § 232.302 Amount of annuity.

(a) (1) A spouse's annuity for a month shall be equal to one-half of the annuity

or pension of the retired employee, but not more than 110 per cent of an amount equal to the maximum amount which could be paid to anyone, with respect to such month, as a wife's insurance benefit under section 202(b) of the Social Security Act as amended from time to time.

(2) The maximum spouse's annuity for a month may be exceeded where the employee's annuity is computed as prescribed in § 225.6 of this chapter.

(b) Where the annuity of the retired employee was awarded on a reduced basis because such individual had not attained the age of 65, the spouse's annuity shall be computed as though the employee's annuity had been awarded under section 2 (a) 1 of the act after such annuitant had attained age 65.

(c) Where the annuity of the retired employee was awarded and reduced pursuant to a joint and survivor election, the spouse's annuity shall be computed as though such joint and survivor election had not been made.

[Board Order 55-89, 20 F.R. 3712, May 27, 1955, as amended by Board Order 60-13, 25 F.R. 1674, Feb. 26, 1960; Board Order 62-33, 27 F.R. 3323, Apr. 7, 1962]

#### § 232.303 Reduction because of other benefits.

The spouse's annuity of an individual who is entitled, or on proper application would be entitled, to a retirement annuity or parent's insurance annuity under the Railroad Retirement Act, or to any monthly insurance benefit under the Social Security Act, other than a wife's or husband's insurance benefit, shall be reduced by the amount of such other benefits: *Provided however*, That where a spouse has not been awarded a wife's or husband's insurance benefit, or becomes disentitled to a wife's or husband's insurance benefit after having been awarded such benefit, or has had a wife's or husband's insurance benefit reduced because the spouse is or on proper application would be entitled to any other monthly insurance benefit under the Social Security Act, the reduction shall be limited to the amount by which such other monthly insurance benefit exceeds the wife's or husband's insurance benefit to which the spouse would otherwise be entitled.

[Board Order 60-13, 25 F.R. 1674, Feb. 26, 1960]

**§ 232.304 Reduction because of age.**

Where eligibility for a spouse's annuity is based on age 62 to 65, the amount of the annuity as computed under § 232.302 shall be reduced by one one-hundred-and-eightieth for each calendar month during all of which the spouse is less than 65 years of age when the annuity begins to accrue.

[Board Order 60-13, 25 F.R. 1674, Feb. 26, 1960]

**§ 232.305 Rounding annuity.**

When awarded on or after September 6, 1958, a monthly spouse's annuity that is computed under this part and that is not a multiple of \$0.10, shall be rounded to the next higher multiple of \$0.10.

[Board Order 60-13, 25 F.R. 1674, Feb. 26, 1960]

**§ 232.306 Commutation of annuity.**

When awarded on or after September 6, 1958, a monthly spouse's annuity that is less than \$5 may be paid quarterly or in a lump sum equal to its commuted value as determined by the Board.

[Board Order 60-13, 25 F.R. 1674, Feb. 26, 1960]

**Subpart D—Payment of Annuities**

**§ 232.401 Statutory provisions.**

The spouse's annuity provided in subsection (e) shall, with respect to any month, be subject to the same provisions of subsection (d) as the individual's annuity, and, in addition, the spouse's annuity shall not be payable for any month if the individual's annuity is not payable for such month (or, in the case of a pensioner, would not be payable if the pension were an annuity) by reason of the provisions of said subsection (d). Such spouse's annuity shall cease at the end of the month preceding the month in which (i) the spouse or the individual dies, (ii) the spouse and the individual are absolutely divorced, or (iii), in the case of a wife under age 65 (other than a wife who is receiving such annuity by reason of an election under subsection (h)), she no longer has in her care a child who, if her husband were then to die, would be entitled to an annuity under subsection (c) of section 5 of this Act (section 2(g) of the act).

[Board Order 60-13, 25 F.R. 1674, Feb. 26, 1960]

**§ 232.402 Loss of annuity with respect to any month.**

A spouse's annuity shall not be paid with respect to any month in which an individual in receipt of an annuity under section 2(e) of the act shall:

(a) Render compensated service to an employer or to the last person by whom such spouse annuitant was employed prior to the date on which the annuity began to accrue, or

(b) The retirement annuity of the employee annuitant is not payable, or in the case of a pensioner such pension would not be payable if it were an annuity subject to the provisions of section 2 (d) of the act.

[Board Order 55-89, 20 F.R. 3712, May 27, 1955]

**§ 232.403 Entitlement ends.**

Entitlement to a spouse's annuity under the act shall cease at the end of the month preceding the month in which any of the following events occurs:

(a) The spouse annuitant dies.

(b) The wife or husband of the spouse annuitant dies.

(c) The marriage of the spouse annuitant and the annuitant or pensioner is ended by absolute divorce.

(d) A wife annuitant under age 65 (other than a wife who is receiving the annuity by reason of an election under section 2(h) of the act) no longer has in her care a child who, if her husband were then to die, would be entitled to an annuity under section 5(c) of the act.

[Board Order 55-89, 20 F.R. 3712, May 27, 1955, as amended by Board Order 60-13, 25 F.R. 1674, Feb. 26, 1960]

**PART 234—ANNUITIES DUE BUT UNPAID AT DEATH**

Sec.

234.1 Employee annuities due but unpaid at death.

234.2 Spouse annuities due but unpaid at death.

234.3 Insurance annuities due but unpaid at death.

234.4 Joint and survivor annuities due but unpaid at death.

234.5 Time of filing application.

234.6 Escheat.

**AUTHORITY:** The provisions of this Part 234 issued under sec. 10, 50 Stat. 314, 45 U.S.C. 228].

**SOURCE:** The provisions of this Part 234 contained in Board Order 60-40, 25 F.R. 2419, Mar. 23, 1960.

**§ 234.1 Employee annuities due but unpaid at death.**

(a) Annuities which will have become due an employee but will not have been paid at the employee's death, if such death shall have occurred after Septem-